

Message Text

LIMITED OFFICIAL USE

PAGE 01 KUALA 01892 01 OF 02 280514Z

ACTION EA-09

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03

INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03

SP-02 LAB-04 SIL-01 OMB-01 L-03 H-01 NSC-05

SS-15 STR-04 CEA-01 PA-01 PRS-01 /083 W

-----280647Z 004331 /17

R 280242Z MAR 77

FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 6650

INFO AMEMBASSY BANGKOK

AMEMBASSY JAKARTA

AMEMBASSY MANILA

AMEMBASSY SINGAPORE

LIMITED OFFICIAL USE SECTION 1 OF 2 KUALA LUMPUR 1892

E.O. 11652: N/A

TAGS: EINV, EALR, MY

SUBJECT: DIFFICULTIES IN INDUSTRIAL COORDINATION ACT NEGOTIATIONS

REF: KUALA LUMPUR 1602 (NOTAL)

1. SUMMARY: DEPUTY PRIME MINISTER (DPM) HAS ANNOUNCED THAT HIS CABINET COMMITTEE ON INVESTMENT HAS COMPLETED ITS REVIEW OF AMENDMENTS TO INDUSTRIAL COORDINATION ACT (ICA) AND HAS SENT ITS RECOMMENDATIONS TO FULL CABINET FOR CONSIDERATION. IF CABINET APPROVES, AMENDMENTS WILL BE PRESENTED TO PARLIAMENT NEXT WEEK. CABINET COMMITTEE HAS DECIDED AGAINST AMENDING ICA TO LEGALLY PROVIDE FOR APPEALS PANEL. INSTEAD PANEL WILL BE CREATED ADMINISTRATIVELY AND LICENSING AUTHORITY AND PRIVATE SECTOR ADVISORY PANEL WILL NOT BE SET UP. THIS DECISION HAS CREATED STRONG OPPOSITION WITHIN CHINESE BUSINESS COMMUNITY. ORGANIZATIONS REPRESENTING THEIR INTERESTS HAVE EITHER ALREADY ISSUED STATEMENTS OPPOSING CABINET COMMITTEE DECISION OR ARE PREPARING TO DO SO. IN ADDITION, THEY HAVE LINED UP SUPPORT FROM MALAYSIA

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 KUALA 01892 01 OF 02 280514Z

CHINESE ASSOCIATION TO FIGHT AMENDMENTS BOTH WITHIN CABINET AND IN PARLIAMENT. OPPOSITION DEMOCRATIC ACTION PARTY HAS ALSO AGREED TO FIGHT ICA IN PARLIAMENT.

GIVEN DIFFERENT PERCEPTIONS OF GOM AND CHINESE MANUFACTURERS AND THE DIFFERENT UNDERLYING REALITIES THEY FACE, EMBASSY EXPECTS THAT ICA PENDULUM WILL CONTINUE TO SWING FOR NEAR TERM AS IT HAS FOR LAST TWO YEARS. END SUMMARY.

2. IN STATEMENT APPEARING IN PRESS ON MARCH 23, DR. MAHATHIR BIN MOHAMED, DEPUTY PRIME MINISTER AND CHAIRMAN OF GOM'S CABINET COMMITTEE ON INVESTMENT, ANNOUNCED THAT HIS COMMITTEE AND FINALIZED ITS POSITION ON INDUSTRIAL COORDINATION ACT (ICA) AMENDMENTS. RECOMMENDATIONS OF CABINET COMMITTEE HAVE NOW BEEN FORWARDED TO FULL CABINET AND WILL, IF APPROVED, BE PRESENTED IN PARLIAMENT NEXT WEEK. OF PARTICULAR INTEREST, WAS FACT THAT CABINET COMMITTEE ESSENTIALLY REJECTED MOST IMPORTANT PRIVATE SECTOR PROPOSAL WHICH WAS CREATION, WITHIN LEGAL FRAMEWORK OF ICA ITSELF, OF FORMAL APPEALS BOARD. INSTEAD, DR. MAHATHIR PROPOSED THAT APPEALS BOARD, MADE UP OF UNSPECIFIED MINISTERS, BE SET UP ADMINISTRATIVELY TO HANDLE APPEALS. DR. MAHATHIR ARGUED THAT ANY LEGAL PROVISION FOR AN ENTITY BETWEEN A MINISTER AND THE KING "WOULD CONSTITUTE AN INFRINGEMENT OF PROTOCOL".

3. CABINET COMMITTEE ALSO TURNED DOWN OTHER PARTS OF PACKAGE REQUESTED BY PRIVATE SECTOR REPRESENTATIVES A LICENSING AUTHORITY REPORTING TO MINISTER OF TRADE AND INDUSTRY AND A PRIVATE SECTOR ADVISORY PANEL TO OFFER MINISTER ADVICE ON ICA QUESTIONS. AS PRIVATE SECTOR REPRESENTATIVES HAVE INFORMED US, PROPOSAL WOULD HAVE WORKED AS FOLLOWS: LICENSING AUTHORITY WOULD BE MADE UP OF WORKING-LEVEL OFFICIALS AT THE MTI WHO WOULD MAKE FIRST DECISION ON GRANTING OF ICA LICENSE. ANY DISPUTES ARISING FROM THIS PROCESS WOULD BE REFERRED TO AN APPEALS BOARD CHAIRED BY MINISTER OF TRADE AND INDUSTRY. PRIVATE SECTOR INPUT WOULD BE CHANNELLED THROUGH ADVISORY PANEL.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 KUALA 01892 01 OF 02 280514Z

4. CABINET COMMITTEE'S DECISION (WHICH REPRESENTS TYPICAL MALAY COMPROMISE DESIGNED TO AVOID EMBARRASSING MINISTER OF TRADE AND INDUSTRY HAMZAH) HAS CREATED CONSTERNATION AND ANGER WITHIN CHINESE BUSINESS COMMUNIST. THE FEDERATION OF MALAYSIAN MANUFACTURERS (FMM), WHICH REPRESENTS THE LARGEST CHINESE MANUFACTURING FIRMS IN MALAYSIA, IS SERIOUSLY CONSIDERING ISSUING A STATEMENT THAT UNLESS THE APPEAL BOARD IS LEGALLY CONSTITUTED WITHIN ICA, FMM WILL SERVE TO IMPROVE MALAYSIA'S INVESTMENT CLIMATE. CHINESE CHAMBER (CC) HAS ALREADY COME OUT WITH STATEMENT STRONGLY OPPOSING CABINET COMMITTEE'S DECISION NOTING THAT INVESTORS HAVE "FINAL CHOICE". CC STATEMENT CHARACTERIZES GOM'S PROPOSED AMENDMENTS AS "TRIVIAL" AND WARNED THAT ICA WOULD: BACKFIRE ON MALAYSIA; ADVERSELY AFFECT INVESTOR CONFIDENCE, AND MAKE IT DIFFICULT TO ACHIEVE THE THIRD MALAYSIA PLAN (TMP) OBJECTIVES.

5. IN ADDITION TO PUBLIC STATEMENTS, FMM AND CC ARE

RESORTING TO CONTINGENCY PLAN DEVISED SOME TIME AGO TO MEET POSSIBILITY THAT GOM WOULD NOT BE FORTHCOMING ON ICA AMENDMENTS. PLAN CALLS FOR MALAYSIAN CHINESE ASSOCIATION (MCA) TO FIGHT ICA WITHIN CABINET (BY MCA PRESIDENT AND MINISTER OF LABOR LEE SAN CHOON AND MINISTER WITHOUT PORTFOLIO CHONG HON NYAN) AND IN PARLIAMENT ITSELF. BUSINESS GROUPS HAVE MADE IT CLEAR TO MCA THAT ITS PAST PERFORMANCE OF WAFLING ON ICA IS NO LONGER TOLERABLE TO PRIVATE SECTOR. FMM SOURCES HAVE INFORMED US THAT MCA'S LEADERSHIP HAS ACCEPTED THIS POINT AND WILL INDEED FIGHT ICA IN PARLIAMENT. BUSINESS GROUPS HAVE ALSO OBTAINED SUPPORT FROM OPPOSITION (AND MODERATELY SOCIALIST) DEMOCRATIC ACTION PARTY (DAP). LEE LAM THYE, DAP MEMBER OF PARLIAMENT FOR KUALA LUMPUR, HAS ALREADY PUBLICLY CALLED ONGOM TO MEET PRIVATE SECTOR REQUESTS AND HAS STATED THAT ACT IN ITS PRESENT FORM WILL NOT HELP TO ATTRACT FOREIGN INVESTMENT. DAP HAS ALSO OPPOSED ICA IN PRESENT SESSION OF PARLIAMENT.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 KUALA 01892 01 OF 02 280514Z

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 KUALA 01892 02 OF 02 280645Z
ACTION EA-09

INFO OCT-01 ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03
INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03
SP-02 LAB-04 SIL-01 OMB-01 L-03 H-01 NSC-05
SS-15 STR-04 CEA-01 PA-01 PRS-01 /083 W
-----280647Z 004768 /17

R 280242Z MAR 77
FM AMEMBASSY KUALA LUMPUR
TO SECSTATE WASHDC 6651
INFO AMEMBASSY BANGKOK
AMEMBASSY JAKARTA
AMEMBASSY MANILA
AMEMBASSY SINGAPORE

LIMITED OFFICIAL USE SECTION 2 OF 2 KUALA LUMPUR 1892

6. COMMENT: THERE ARE ESSENTIALLY TWO CONSIDERATIONS THAT

ARE PRESSUING BOTH SIDES IN THIS DISPUTE: THEIR DIFFERING PERCEPTIONS OF THE ISSUE, AND THE REALITY UNDERLYING THAT ISSUES THEMSELVES. GOM VIEWS ITSELF AS TRYING TO RESOLVE ISSUE WITHOUT EITHER RAISING SUBSTANTIAL FEARS IN CHINSE BUSINESS COMMUNITY AS TO GOVERNMENT'S INTENTIONS RE COMMUNAL ISSUE OR GIVING RISE TO FEELINGS AMONG MALAYS THAT IT IS BEING TOO ACCOMMODATING TO CHINESE INTERESTS. SECONDLY, TRADE AND INDUSTRY MIN HAMZAH (THE PM'S BROTHER-IN-LAW) HEATEDLY TOLD A RECENT CABINET MEETING THAT HE WOULD BE PERSONALLY AFFRONTED BY CREATION OF AN APPEALS BOARD AS IT WOULD APPEAR TO BE A VOTE OF NO CONFIDENCE. CHINESE BUSINESSMEN PERCEIVE SITUATION IN RADICALLY DIFFERENT TERMS. THEY FEEL THAT GOM IS NOW REVEALING ITS TRUE COLORS ON COMMUNAL ISSUE AND IS NOT PREPARED TO TAKE THEIR INTERESTS SUFFICIENTLY INTO CONSIDERATION. THIS IS CREATING A GROWING WILLINGNESS TO CONFRONT GOM ON A POLITICAL LEVEL. INTERESTINGLY, ONE OF MOST EFFECTIVE SPOKESMEN FOR DOMESTIC BUSINESS INTERESTS IS A MALY, KHIR JOHARI, FORMER MINISTER OF COMMERCE AND INDUSTRY, LEADING MALAYSIAN BUSINESS-LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 KUALA 01892 02 OF 02 280645Z

MAN AND VICE PRESIDENT OF FMM. UNDERLYING THESE CONSIDERATIONS THE EMBASSY SEES CERTAIN CONTRADICTORY REALITIES THAT MAY LEAD BOTH SIDES TO A LONG-TERM ACCOMODATION OVER THE ICA. ON THE GOM'S PART, POLICYMAKERS ARE INCREASINGLY AWARE OF THE VERY SLOW RATE OF INVESTMENT IN MALAYSIA, BY BOTH FOREIGN AND DOMESTIC INVESTORS. BASED ON FIGURES RECENTLY RELEASED BY GOM, INVESTMENT IS RUNNING AT LEAST 40 PERCENT BELOW THE YEARLY TARGET OF M\$2 BILLION WITH NO APPARENT PROSPECTS FOR A RAPDI IMPROVEMENT. IF THIS SITUATION CONTINUES MUCH LONGER, GOM WILL BE FORCED TO SERIOUSLY CONSIDER FURTHER AMENDMENTS TO ICA TO MAKE IT MORE PALATABLE TO DOMESTIC INVESTORS. CHINESE MANUFACTURERS, CONVERSELY, SEE PROSPECTS FOR INCREASED SALES IN AN ECONOMY BUOYANT WITH EXPORT RECEIPTS. HOW LONG THEY WILL CONINUE TO HOLD BACK ON EXPANSION OF THEIR INVESTMENTS (THEREBY FOREGOING INCREASED PROFIT POSSIBILITIES) BECAUSE OF ANGER AT GOM POLICIES AT UNCLEAR. HOWEVER, THE CHANGES IN THE ICA PRESENTLY BEING CONSIDERED BY THE GOM DO NOT, IN OUR VIEW, ADEQUATELY ADDRESS CONCERNS OF DOMESTIC INVESTORS IN MANNER LEADING TO RE-ESTABLISHMENT OF A SATISFACTORY INVESTMENT CLIMATE. TO THE EXTENT THAT GOM STICKS TO ITS GUNS ON ICA, INCREASING OPPORTUNITIES FOR PROFITABLE INVESTMENT COULD BE SO COMPELLING THAT CHINESE INVESTORS WOULD RESORT TO PRACTICE TRADITIONAL IN OTHER PARTS OF SOUTHEAST ASIA, I.E., CORRUPTION OF THE SYSTEM. DROP-OFF IN WORLD-WIDE INVESTMENT, AND ESPECIALLY THIN PICKINGS AVAILABLE TO DEVELOPING COUNTRIES AT PRESENT WOULD PRESUMABLY CAUSE GOM TO GO EXTRA MILE SO AS NOT TO MISS ANY POTENTIAL FOREIGN INVESTORS BUT THIS CONSIDERATION IS MITIGATED TO A CERTAIN EXTENT BY COMMUNAL FACTORS HERE. WE EXPECT, THEREFORE, A FURTHER

PERIOD OF HAGGLING UNTIL PRESSURES OF UNDERLYING REALITIES
EXERT THEMSELVES OVER TIME. THIS WILL RESULT IN CONTINUATION
OF PENDULUM EFFECT EXPERIENCED IN ICA NEGOTIATIONS DURING
LAST TWO YEARS, WITH RESULT THAT THIS IMPORTANT QUESTION
UNLIKELY TO BE RESOLVED IN NEAR TERM IN MANNER CONDUCTIVE
TO A FAVORABLE INVESTMENT CLIMATE.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 KUALA 01892 02 OF 02 280645Z

UNDERHILL

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LEGISLATION, INDUSTRIAL PRODUCTION, PRIVATE ENTERPRISE, PROGRESS REPORTS, AMENDMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 28-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977KUALA01892
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770105-0511
Format: TEL
From: KUALA LUMPUR
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770316/aaaaansi.tel
Line Count: 237
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 32e439b1-c288-dd11-92da-001cc4696bcc
Office: ACTION EA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 KUALA LUMPUR 1602
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 04-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2979119
Secure: OPEN
Status: NATIVE
Subject: DIFFICULTIES IN INDUSTRIAL COORDINATION ACT NEGOTIATIONS
TAGS: EINV, EALR, MY
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/32e439b1-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009